

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

VANESSA MENJIVAR,

Plaintiff,

vs.

FAMILY DOLLAR STORES OF TEXAS,
LLC,

Defendant.

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CIVIL ACTION NO. 4:22-cv-1063

Jury Demand

NOTICE OF REMOVAL

I.
COURT AND PARTY INFORMATION

1. FAMILY DOLLAR STORES OF TEXAS, LLC is the Defendant in a civil action commenced on February 25, 2022 in the 164th District Court of Harris County, Texas, entitled *Vanessa Menjivar v. Family Dollar Stores of Texas, LLC*, Cause No. 2022-12091 ("State Court Action"). Copies of the (1) Court Docket Sheet; (2) Plaintiff's Original Petition; (3) Citation to Family Dollar Stores of Texas, LLC; and (4) Defendant's Original Answer are attached hereto and constitute all process, pleadings and orders served in the State Court Action. *See* Index of State Court Documents attached hereto. The address for the 164th District Court of Harris County, Texas is as follows: Harris County Civil Courthouse, 201 Caroline, 12th Floor, Houston, Texas 77002.

2. Plaintiff in the State Court Action is Vanessa Menjivar ("Plaintiff"). Plaintiff is represented by C.J. Baker (Texas Bar No. 24086719), Joshua D. Lee (Texas Bar No. 24100139) and Adam M. Grable (Texas Bar No. 24120859) of Armstrong & Lee LLP, 2900 North Loop West, Suite 830, Houston, Texas 77092, (832) 709-1124, cjbaker@armstronglee.com,

jlee@armstronglee.com, agable@armstronglee.com, service@armstronglee.com. Family Dollar Stores of Texas, LLC ("Defendant" or "Family Dollar") is the Defendant in the State Court Action and is represented by Kenneth C. Riney (Texas Bar No. 24046721) of Kane Russell Coleman Logan PC, 901 Main Street, Suite 5200, Dallas, Texas 75202, (214) 777-4200, kriney@krcl.com.

II. **STATE COURT ACTION**

3. Plaintiff claims that on or about April 24, 2021, she was injured while shopping at the Family Dollar Store located at 1506 Federal Road, Houston, Texas 77015, when she slipped on a puddle of cleaning liquid, causing her to fall.

4. Defendant requested a trial by jury in the State Court Action, and the jury fee has been paid.

III. **GROUND FOR REMOVAL**

5. Defendant files this Notice of Removal on the grounds of diversity jurisdiction under 28 U.S.C. § 1332(a). A suit may be removed from state court to federal court on the grounds of diversity jurisdiction when the suit involves a controversy between citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

6. Except as otherwise expressly provided by an Act of Congress, any civil action brought in a state court of which the district courts of the United States have original jurisdiction may be removed to the district court of the United States for the district and division embracing the place where the action is pending. *See* 28 U.S.C. § 1441. The Houston Division of the Southern District of Texas is the United States district and division embracing Harris County, Texas, the county in which the State Court Action is pending.

A. This Notice of Removal is timely filed.

7. The citation and petition in this action were served on Defendant on March 3, 2022, by serving Defendant's registered agent. This Notice of Removal is filed within thirty (30) days of receipt of the citation and petition and is, therefore, timely filed pursuant to U.S.C. § 1446(b).

B. Complete diversity exists between the parties properly joined.

8. This is a civil action that falls under the Court's original jurisdiction pursuant to 28 U.S.C. § 1332(a) and is one that may be removed to this Court based on diversity of citizenship in accordance with 28 U.S.C. §§ 1441 and 1446. Complete diversity exists in this case because Plaintiff and Defendant are citizens of different states.

(i) Plaintiff

9. As stated in Plaintiff's Original Petition, Plaintiff is a resident of the State of Texas. Thus, Plaintiff is now, and was at the time this action commenced, a citizen of the State of Texas.

(ii) Defendant

10. Defendant is a foreign limited liability company whose sole member is Family Dollar Stores of Ohio, Inc., a foreign corporation formed under the laws of the Commonwealth of Virginia with its principal place of business in the Commonwealth of Virginia. Thus, Defendant Family Dollar is now and was at the time this action was commenced a citizen of the Commonwealth of Virginia and of no other state.

11. As Plaintiff is a citizen of the State of Texas and not of the Commonwealth of Virginia, complete diversity exists pursuant to 28 U.S.C. § 1332.

C. The amount in controversy requirement is satisfied.

12. As reflected in Plaintiff's Original Petition, the amount in controversy in this action, exclusive of interest and costs, exceeds the sum of \$75,000. Specifically, as explicitly stated in Plaintiff's Original Petition, Plaintiff seeks monetary relief of more than \$1,000,000. *See* Plaintiff's Original Petition, ¶4. Therefore, the estimate of damages that has been put at issue in this action by Plaintiff and the amount in controversy in this action exceeds \$75,000.

13. Removal of the State Court Action is proper pursuant to 28 U.S.C. § 1441, because it is a civil action brought in a state court, and the federal district courts have original jurisdiction over the subject matter under 28 U.S.C. § 1332(a) because Plaintiff and Defendant are diverse in citizenship.

WHEREFORE, Defendant, pursuant to these statutes and in conformance with the requirements set forth in 28 U.S.C. § 1446, removes this action for trial from the 164th District Court, Harris County, Texas to this Court on this 1st day of April, 2022.

Respectfully submitted,

KANE RUSSELL COLEMAN LOGAN PC

By: /s/ Kenneth C. Riney
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**ATTORNEYS FOR DEFENDANT
FAMILY DOLLAR STORES OF TEXAS, LLC.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this the 1st day of April, 2022, a copy of the foregoing document was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to counsel for Plaintiff by operation of the Court's electronic filing system, unless counsel for Plaintiff is not registered with the CM/ECF system, in which case the undersigned certifies that a copy of the foregoing document was sent to counsel in accordance with the Federal Rules of Civil Procedure.

/s/ *Kenneth C. Riney*

Kenneth C. Riney